

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 1678 – SB 1785**

January 27, 2022

**SUMMARY OF BILL:** Expands the offenses of aggravated assault and assault against a first responder.

**FISCAL IMPACT:**

**Increase in State Expenditures – \$727,200 Incarceration**

Assumptions:

*Aggravated Assault*

- Tenn. Code Ann. § 39-13-102(a)(1)(A)(iii) prohibits a person from intentionally or knowingly committing an assault that involved the use or display of a deadly weapon.
- The proposed legislation expands such an offense to include the use or display of any article used or fashioned to lead the victim to reasonably believe it to be a deadly weapon.
- Based upon information provided by the Department of Correction (DOC), there has been an average of 787.3 admissions in each of the last 10 years for the offense of aggravated assault.
- However, these admissions include offenses under Tenn. Code Ann. § 39-13-102(a)(1)(A)(i)-(iv). It is assumed that 25 percent or 196.8 (787.3 x 25.0%) of these admissions involved the use or display of a deadly weapon.
- It can be reasonably assumed that admissions will increase by 10 percent or 19.68 additional admissions annually as a result of the proposed legislation (196.8 x 10.0%).
- The estimated average time served for aggravated assault is 1.69 years, after adjusting for pre-trial jail credits.
- Pursuant to Tenn. Code Ann. § 39-13-102(e)(1)(A)(ii), aggravated assault is a Class C felony offense with a mandatory minimum sentence of 90 days incarcerated and a mandatory fine of \$15,000.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.74 percent per year for each of the past 10 years (from 2010 to 2020).
- The weighted average operational costs per day are estimated to be \$51.36 for inmates housed at state facilities and \$48.77 for inmates housed at local facilities.
- The estimated increase in incarceration costs are estimated to be the following over the next ten-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 363,300	FY22-23
\$ 618,200	FY23-24
\$ 620,700	FY24-25
\$ 626,100	FY25-26
\$ 630,500	FY26-27
\$ 635,900	FY27-28
\$ 638,600	FY28-29
\$ 644,600	FY29-30
\$ 649,600	FY30-31
\$ 655,600	FY31-32

- Pursuant to Tenn. Code Ann. § 9-4-210, recurring costs increases are to be estimated on the highest of the next ten fiscal years; therefore, the recurring increase in incarceration costs will be \$655,600.

*Reckless Aggravated Assault*

- Tenn. Code Ann. § 39-13-102(a)(1)(B)(iii) prohibits a person from recklessly committing an assault that involved the use or display of a deadly weapon.
- The proposed legislation expands such an offense to include the use or display of any article used or fashioned to lead the victim to reasonably believe it to be a deadly weapon.
- Based upon information provided by the DOC, there has been an average of 75.9 admissions in each of the last 10 years for the offense of reckless aggravated assault.
- However, these admissions include offenses under Tenn. Code Ann. § 39-13-102(a)(1)(B)(i)-(iii). It is assumed that 25 percent or 18.98 (75.9 x 25.0%) of these admissions involved the use or display of a deadly weapon.
- It can be reasonably assumed that admissions will increase by 10 percent or 1.9 additional admissions annually as a result of the proposed legislation (18.98 x 10.0%).
- The estimated average time served for reckless aggravated assault is 0.94 years, after adjusting for pre-trial jail credits.
- Pursuant to Tenn. Code Ann. § 39-13-102(e)(1)(A)(v), reckless aggravated assault is a Class D felony offense with a mandatory minimum sentence of 90 days incarcerated and a mandatory fine of \$15,000.
- The estimated increase in incarceration costs are estimated to be the following over the next ten-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 32,800	FY22-23
\$ 33,000	FY23-24
\$ 33,300	FY24-25
\$ 33,600	FY25-26
\$ 34,000	FY26-27
\$ 34,300	FY27-28
\$ 34,700	FY28-29
\$ 35,000	FY29-30
\$ 35,400	FY30-31
\$ 35,700	FY31-32

- Pursuant to Tenn. Code Ann. § 9-4-210, recurring costs increases are to be estimated on the highest of the next ten fiscal years; therefore, the recurring increase in incarceration costs will be \$35,700.

*Aggravated Assault Against a First Responder*

- Tenn. Code Ann. § 39-13-116(b)(3) prohibits a person from knowingly committing an assault that involved the use or display of a deadly weapon against a first responder or nurse, who is discharging or attempting to discharge the first responder or nurse's official duties.
- The proposed legislation expands such an offense to include the use or display of any article used or fashioned to lead the victim to reasonably believe it to be a deadly weapon.
- Public Chapter 3 of the Second Extraordinary Session of the 111th General Assembly created the offense of aggravated assault against a first responder or nurse. As such, statistics for convictions of the recently created offense are not yet available.
- Based on data obtained through the Tennessee Bureau of Investigation (TBI) Tennessee Incident Based Reporting System (TIBRS), over the last three years, there was an average of 905 arrests for aggravated assault against law enforcement officer.
- Based on information in the FY19-20 Annual Report of the Tennessee Judiciary, approximately 47.7 percent of criminal court dispositions statewide resulted in a conviction.
- This analysis assumes 47.7 percent, or 431.68 (905 x 47.7%) of arrests would result in a Class C felony admission of aggravated assault. It is further assumed that 25 percent or 107.92 (431.68 x 25.0%) of these admissions involved the use or display of a deadly weapon.
- It can be reasonably assumed that admissions of aggravated assault against a first responder will increase by one percent or 1.07 additional admissions annually as a result of the proposed legislation (107.92 x 1.0%).
- The estimated average time served for aggravated assault is 1.69 years, after adjusting for pre-trial jail credits.

- Pursuant to Tenn. Code Ann. § 39-13-116(c)(2), aggravated assault against a first responder that involves the use or display of a deadly weapon is a Class C felony offense with a mandatory fine of \$15,000 and a mandatory minimum sentence of 90 days incarceration.
- The estimated increase in incarceration costs are estimated to be the following over the next ten-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 19,800	FY22-23
\$ 33,500	FY23-24
\$ 33,500	FY24-25
\$ 33,900	FY25-26
\$ 34,200	FY26-27
\$ 34,600	FY27-28
\$ 34,800	FY28-29
\$ 35,200	FY29-30
\$ 35,500	FY30-31
\$ 35,900	FY31-32

- Pursuant to Tenn. Code Ann. § 9-4-210, recurring costs increases are to be estimated on the highest of the next ten fiscal years; therefore, the recurring increase in incarceration costs will be \$35,900.
- The recurring increase in incarceration expenditures will be \$727,200 (\$655,600 + \$35,700 + \$35,900).
- Based on the Fiscal Review Committee's 2008 study and the Administrative Office of the Courts' 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant. The proposed legislation will not significantly change state or local revenue.
- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.
- All calculations used in completion of this fiscal note are available upon request.

## CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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